

Bill No. CS for SB 1058

Barcode 760420

578-1836-06

Proposed Committee Substitute by the Committee on Community
Affairs

1 A bill to be entitled

2 An act relating to emergency management;

3 amending s. 252.355, F.S.; specifying

4 additional entities and agencies that are

5 required to provide registration information to

6 persons with disabilities or special needs for

7 purposes of inclusion within the registry of

8 persons with special needs maintained by local

9 emergency management agencies; providing that

10 the Department of Community Affairs shall be

11 the designated lead agency responsible for

12 community education and outreach to the general

13 public, including persons with special needs,

14 regarding registration as a person with special

15 needs, special needs shelters, and general

16 information regarding shelter stays; requiring

17 the department to disseminate educational and

18 outreach information through local emergency

19 management offices; requiring the department to

20 coordinate community education and outreach

21 related to special needs shelters with

22 specified agencies and entities; providing that

23 special needs shelters must allow persons with

24 special needs to bring service animals into

25 special needs shelters; revising provisions

26 with respect to the required notification of

27 residential utility customers of the

28 availability of the special needs registration

29 program; providing that specified confidential

30 and exempt information relating to registration

31 of persons with special needs be provided to

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1 the Department of Health and local law
2 enforcement agencies; creating s. 252.3568,
3 F.S.; requiring the Division of Emergency
4 Management to address evacuation of persons
5 with pets in the shelter component of the state
6 comprehensive emergency management plan;
7 creating s. 252.357, F.S., requiring the
8 Florida Comprehensive Emergency Management Plan
9 to permit the Agency for Health Care
10 Administration to make initial contact with
11 each nursing home in a disaster area; requiring
12 the agency to annually publish an emergency
13 telephone number that may be used by nursing
14 homes to contact the agency; amending s.
15 252.385, F.S., relating to public shelter
16 space; requiring the Division of Emergency
17 Management of the Department of Community
18 Affairs to biennially prepare and submit a
19 statewide emergency shelter plan to the
20 Governor and the Cabinet for approval;
21 providing plan requirements; requiring the
22 Department of Health to provide specified
23 assistance to the division; revising those
24 facilities which are excluded as being suitable
25 for use as public hurricane evacuation
26 shelters; requiring local emergency management
27 agencies to inspect a designated facility prior
28 to activation to determine its readiness;
29 amending s. 381.0303, F.S.; providing for the
30 operation, maintenance, and closure of special
31 needs shelters; providing that local Children's

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1 Medical Services offices shall assume lead
2 responsibility for specified coordination with
3 respect to the development of a plan for the
4 staffing and medical management of pediatric
5 special needs shelters; requiring such plans to
6 conform to the local comprehensive emergency
7 management plan; requiring county governments
8 to assist the Department of Health with
9 nonmedical staffing and operation of special
10 needs shelters; requiring local health
11 departments and emergency management agencies
12 to coordinate such efforts to ensure
13 appropriate staffing; providing that the
14 appropriate county health department,
15 Children's Medical Services office, and local
16 emergency management agency shall jointly
17 determine the responsibility for medical
18 supervision in a special needs shelter;
19 providing notification requirements; requiring
20 local emergency management agencies to be
21 responsible for the infrastructure and closure
22 of special needs shelters; requiring the
23 emergency management agency and the local
24 health department to coordinate efforts to
25 ensure appropriate designation, operation, and
26 infrastructure in special needs shelters;
27 providing that a county health department is
28 not prohibited from entering into an
29 alternative agreement with a local emergency
30 management agency to assume the lead
31 responsibility for special needs shelter

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1 supplies and equipment; providing that state
2 employees with a preestablished role in
3 disaster response are subject to serve in times
4 of disaster in specified capacities; requiring
5 the Secretary of Elderly Affairs to convene
6 multiagency special needs shelter discharge
7 planning teams to assist local areas that are
8 severely impacted by a natural or manmade
9 disaster that requires the use of special needs
10 shelters; providing duties and responsibilities
11 of such discharge planning teams; providing for
12 the inclusion of specified state agency
13 representatives on each discharge planning
14 team; revising provisions relating to
15 reimbursement of health care practitioners;
16 providing for eligibility of specified health
17 care facilities for reimbursement when a
18 multiagency special needs shelter discharge
19 planning team discharges persons with special
20 needs to such receiving facilities; providing
21 procedures and requirements with respect to
22 such reimbursement; requiring the department to
23 specify by rule expenses that are reimbursable
24 and the rate of reimbursement for services;
25 revising provisions which prescribe means of
26 and procedures for reimbursement; disallowing
27 specified reimbursements; revising provisions
28 with respect to the organization, role, duties,
29 and composition of the special needs shelter
30 interagency committee; requiring the department
31 to adopt specified rules with respect to

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1 special needs shelters; providing requirements
 2 with respect to emergency management plans
 3 submitted to a county health department by a
 4 home health agency, nurse registry, hospice, or
 5 home medical equipment provider; amending ss.
 6 400.492, 400.497, 400.506, 400.610, and
 7 400.934, F.S.; revising requirements with
 8 respect to the comprehensive emergency
 9 management plans of home health agencies, nurse
 10 registries, and hospices, and providing such
 11 requirements with respect to home medical
 12 equipment providers, to include the means by
 13 which continuing services will be provided to
 14 patients who evacuate to special needs
 15 shelters; authorizing the establishment of
 16 links to local emergency operations centers for
 17 specified purposes; providing actions that
 18 constitute abandonment of a patient; providing
 19 sanctions for abandonment; revising
 20 requirements of a county health department with
 21 respect to review of a comprehensive emergency
 22 management plan submitted by a home health
 23 agency, nurse registry, or hospice, and
 24 providing such requirements with respect to a
 25 home medical equipment provider; providing
 26 requirements upon failure to submit a plan or
 27 requested information to the department;
 28 providing for imposition of a fine; revising
 29 requirements of the Department of Health with
 30 respect to review of the plan of a home health
 31 agency, nurse registry, or hospice that

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1 operates in more than one county, and providing
2 such requirements with respect to a home
3 medical equipment provider that operates in
4 more than one county; providing that the
5 preparation and maintenance of a comprehensive
6 emergency management plan by a home medical
7 equipment provider is a requirement for
8 licensure and must meet minimum criteria
9 established by the Agency for Health Care
10 Administration; providing plan requirements;
11 providing that the plan is subject to review
12 and approval by the county health department;
13 requiring each home medical equipment provider
14 to maintain a current prioritized list of
15 patients who need continued services during an
16 emergency; amending s. 400.925, F.S.; defining
17 "life-supporting or life-sustaining equipment"
18 for purposes of pt. X of ch. 400, F.S.,
19 relating to home medical equipment providers;
20 amending s. 400.935, F.S.; requiring the Agency
21 for Health Care Administration to adopt rules
22 with respect to the comprehensive emergency
23 management plan prepared by a home medical
24 equipment services provider; amending s.
25 408.831, F.S.; providing that entities
26 regulated or licensed by the Agency for Health
27 Care Administration may exceed their licensed
28 capacity to act as a receiving facility under
29 specified circumstances; providing requirements
30 while such entities are in an overcapacity
31 status; providing for issuance of an inactive

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1 license to such licensees under specified
2 conditions; providing requirements and
3 procedures with respect to the issuance and
4 reactivation of an inactive license; providing
5 fees; providing an effective date.
6

7 Be It Enacted by the Legislature of the State of Florida:
8

9 Section 1. Section 252.355, Florida Statutes, is
10 amended to read:

11 252.355 Registry of persons with special needs;
12 notice.--

13 (1) In order to meet the special needs of persons who
14 would need assistance during evacuations and sheltering
15 because of physical, mental, cognitive impairment, or sensory
16 disabilities, each local emergency management agency in the
17 state shall maintain a registry of persons with special needs
18 located within the jurisdiction of the local agency. The
19 registration shall identify those persons in need of
20 assistance and plan for resource allocation to meet those
21 identified needs. To assist the local emergency management
22 agency in identifying such persons, home health agencies,
23 hospices, nurse registries, home medical equipment providers,
24 the Department of Children and Family Services, the Department
25 of Health, the Agency for Health Care Administration, the
26 Department of Education, Agency for Persons with Disabilities,
27 ~~Department of Labor and Employment Security,~~ and the
28 Department of Elderly Affairs shall provide registration
29 information to all of their special needs clients and to all
30 people with disabilities or special needs who receive services
31 ~~incoming clients as a part of the intake process.~~ The registry

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1 shall be continuously maintained ~~updated annually~~. The
2 registration program shall give persons with special needs the
3 option of preauthorizing emergency response personnel to enter
4 their homes during search and rescue operations if necessary
5 to assure their safety and welfare following disasters.

6 (2) The Department of Community Affairs shall be the
7 designated lead agency responsible for community education and
8 outreach to the general public, including special needs
9 clients, regarding registration and special needs shelters and
10 general information regarding shelter stays. The Department of
11 Community Affairs shall disseminate such educational and
12 outreach information through the local emergency management
13 offices. The department shall coordinate the development of
14 curriculum and dissemination of all community education and
15 outreach related to special needs shelters with the
16 Clearinghouse on Disability Information of the Governor's
17 Working Group on the Americans with Disabilities Act, the
18 Department of Children and Family Services, the Department of
19 Health, the Agency for Health Care Administration, the
20 Department of Education, the Agency for Persons with
21 Disabilities, and the Department of Elderly Affairs.

22 (3) A person with special needs shall be allowed to
23 bring his or her service animal into a special needs shelter
24 in compliance with the Americans with Disabilities Act of
25 1990, Pub. L. No. 101-336. Because a special needs shelter is
26 considered a public facility when it is activated for a
27 disaster, persons with disabilities must be allowed access to
28 special needs shelters when accompanied by a service animal in
29 compliance with the Americans with Disabilities Act, which
30 provides that businesses and organizations that serve the
31 public must allow people with disabilities to bring their

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1 service animals into all areas of a facility where customers
2 are normally allowed to go.

3 ~~(4)(2)~~ ~~On or before May 1 of each year~~ Each electric
4 utility in the state shall ~~annually~~ notify residential
5 customers in its service area of the availability of the
6 registration program available through their local emergency
7 management agency with either:-

8 (a) An initial notification upon the activation of new
9 residential service with the electric utility followed by one
10 annual notification between January 1 and May 31; or

11 (b) Two separate annual notifications between January
12 1 and May 31.

13
14 The notification required under this subsection may be made by
15 any available means, including, but not limited to, written,
16 electronic, or verbal notification, and may be made
17 concurrently with any other notification to residential
18 customers required by law or rule.

19 ~~(5)(3)~~ All records, data, information, correspondence,
20 and communications relating to the registration of persons
21 with special needs as provided in subsection (1) are
22 confidential and exempt from the provisions of s. 119.07(1),
23 except that such information shall be available to other
24 emergency response agencies, as determined by the local
25 emergency management director, and to the Department of Health
26 in the furtherance of its duties and responsibilities. Local
27 law enforcement agencies shall be provided complete shelter
28 registration information upon request.

29 ~~(6)(4)~~ All appropriate agencies and community-based
30 service providers, including home health care providers,
31 hospices, nurse registries, and home medical equipment

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1 providers, shall assist emergency management agencies by
2 collecting registration information for persons with special
3 needs as part of program intake processes, establishing
4 programs to increase the awareness of the registration
5 process, and educating clients about the procedures that may
6 be necessary for their safety during disasters. Clients of
7 state or federally funded service programs with physical,
8 mental, cognitive impairment, or sensory disabilities who need
9 assistance in evacuating, or when in shelters, must register
10 as persons with special needs.

11 Section 2. Section 252.3568, Florida Statutes, is
12 created to read:

13 252.3568 Emergency sheltering of persons with
14 pets.--In accordance with the provisions of s. 252.35, the
15 division shall address the evacuation of persons with pets in
16 the shelter component of the state comprehensive emergency
17 management plan. The Department of Agriculture and Consumer
18 Services shall assist the division in determining strategies
19 regarding this activity.

20 Section 3. Section 252.357, Florida Statutes, is
21 created to read:

22 252.357 Monitoring of nursing homes during
23 disaster.--The Florida Comprehensive Emergency Management Plan
24 shall permit the Agency for Health Care Administration,
25 working from the agency's offices or in the Emergency
26 Operations Center, ESF-8, to make initial contact with each
27 nursing home in the disaster area. The agency, by July 15,
28 2006, and annually thereafter, shall publish on the Internet
29 an emergency telephone number that may be used by nursing
30 homes to contact the agency on a schedule established by the
31 agency to report requests for assistance. The agency may also

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1 provide the telephone number to each facility when it makes
2 the initial facility call.

3 Section 4. Subsection (2) and paragraphs (a) and (b)
4 of subsection (4) of section 252.385, Florida Statutes, are
5 amended to read:

6 252.385 Public shelter space.--

7 (2)(a) The division shall administer a program to
8 survey existing schools, universities, community colleges, and
9 other state-owned, municipally owned, and county-owned public
10 buildings and any private facility that the owner, in writing,
11 agrees to provide for use as a public hurricane evacuation
12 shelter to identify those that are appropriately designed and
13 located to serve as such shelters. The owners of the
14 facilities must be given the opportunity to participate in the
15 surveys. The Board of Regents, district school boards,
16 community college boards of trustees, and the Department of
17 Education are responsible for coordinating and implementing
18 the survey of public schools, universities, and community
19 colleges with the division or the local emergency management
20 agency.

21 (b) By January 31 of each even-numbered year, the
22 division shall prepare and submit a statewide emergency
23 shelter plan to the Governor and the Cabinet for approval,
24 subject to the requirements for approval provided in s.
25 1013.37(2). The plan shall identify the general location and
26 square footage of special needs shelters, by regional planning
27 council region, during the next 5 years. The plan shall also
28 include information on the availability of shelters that
29 accept pets. The Department of Health shall assist the
30 division in determining the estimated need for special needs
31 shelter space and the adequacy of facilities to meet the needs

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1 of persons with special needs based on information from the
2 registries of persons with special needs and other
3 information.

4 (4)(a) Public facilities, including schools,
5 postsecondary education facilities, and other facilities owned
6 or leased by the state or local governments, but excluding
7 hospitals, hospice care facilities, assisted living
8 facilities, or nursing homes, which are suitable for use as
9 public hurricane evacuation shelters shall be made available
10 at the request of the local emergency management agencies. The
11 local emergency management agency shall inspect a designated
12 facility to determine its readiness prior to activating the
13 facility for a specific hurricane or disaster. Such agencies
14 shall coordinate with the appropriate school board,
15 university, community college, or local governing board when
16 requesting the use of such facilities as public hurricane
17 evacuation shelters.

18 (b) The Department of Management Services shall
19 incorporate provisions for the use of suitable leased public
20 facilities as public hurricane evacuation shelters into lease
21 agreements for state agencies. Suitable leased public
22 facilities include leased public facilities that are solely
23 occupied by state agencies and have at least 2,000 square feet
24 of net floor area in a single room or in a combination of
25 rooms having a minimum of 400 square feet in each room. The
26 net square footage of floor area shall ~~must~~ be determined by
27 subtracting from the gross square footage the square footage
28 of spaces such as mechanical and electrical rooms, storage
29 rooms, open corridors, restrooms, kitchens, science or
30 computer laboratories, shop or mechanical areas,
31 administrative offices, records vaults, and crawl spaces.

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1 Section 5. Section 381.0303, Florida Statutes, is
2 amended to read:

3 381.0303 ~~Health practitioner recruitment for~~ Special
4 needs shelters.--

5 (1) PURPOSE.--The purpose of this section is to
6 provide for the operation, maintenance, and closure of special
7 needs shelters and to designate the Department of Health,
8 through its county health departments, as the lead agency for
9 coordination of the recruitment of health care practitioners,
10 as defined in s. 456.001(4), to staff special needs shelters
11 in times of emergency or disaster and to provide resources to
12 the department to carry out this responsibility. However,
13 nothing in this section prohibits a county health department
14 from entering into an agreement with a local emergency
15 management agency to assume the lead responsibility for
16 recruiting health care practitioners.

17 (2) SPECIAL NEEDS SHELTER PLAN; STAFFING; CLOSURE;
18 STATE AGENCY ASSISTANCE ~~AND STAFFING~~.--Provided funds have
19 been appropriated to support ~~medical services~~ disaster
20 coordinator positions in county health departments;
21

22 (a) The department shall assume lead responsibility
23 for the local coordination of local medical and health care
24 providers, the American Red Cross, and other interested
25 parties in developing a plan for the staffing and medical
26 management of special needs shelters. The local Children's
27 Medical Services offices shall assume lead responsibility for
28 the coordination of local medical and health care providers,
29 the American Red Cross, and other interested parties in
30 developing a plan for the staffing and medical management of
31 pediatric special needs shelters. Plans shall conform to ~~The~~
~~plan shall be in conformance with the local comprehensive~~

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1 emergency management plan.

2 **(b)(a)** County health departments shall, in conjunction
3 with the local emergency management agencies, have the lead
4 responsibility for coordination of the recruitment of health
5 care practitioners to staff local special needs shelters.
6 County health departments shall assign their employees to work
7 in special needs shelters when those employees are needed to
8 protect the health and safety of persons with special needs of
9 ~~patients~~. County governments shall assist the Department of
10 Health with nonmedical staffing and the operation of special
11 needs shelters. The local health department and emergency
12 management agency shall coordinate these efforts to ensure
13 appropriate staffing in special needs shelters.

14 **(c)(b)** The appropriate county health department,
15 Children's Medical Services office, and local emergency
16 management agency shall jointly decide ~~determine~~ who has
17 responsibility for medical supervision in each ~~a~~ special needs
18 shelter and shall notify the Division of Emergency Management
19 and the Department of Health of their decision.

20 **(d)(c)** Local emergency management agencies shall be
21 responsible for the designation, ~~and~~ operation, and
22 infrastructure of special needs shelters during times of
23 emergency or disaster and the closure of the facilities
24 following an emergency or disaster. The emergency management
25 agency and the local health department shall coordinate these
26 efforts to ensure appropriate designation, operation, and
27 infrastructure in special needs shelters. County health
28 departments shall assist the local emergency management agency
29 with regard to the management of medical services in special
30 needs shelters. However, nothing in this section prohibits a
31 county health department from entering into an alternative

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1 agreement with a local emergency management agency to assume
2 the lead responsibility for special needs shelter supplies and
3 equipment.

4 (e) Any state employee with a preestablished role in
5 disaster response that has been designated by the employing
6 agency is subject to serve in times of disaster in a capacity
7 that is commensurate with the employee's knowledge, skills,
8 and abilities and to participate in any needed activities
9 related to the disaster unless the employee has other mandated
10 response activities that preclude participation.

11 (f) The Secretary of Elderly Affairs, or his or her
12 designee, shall convene, at any time that he or she deems
13 appropriate and necessary, a multiagency special needs shelter
14 discharge planning team or teams to assist local areas that
15 are severely impacted by a natural or manmade disaster that
16 requires the use of special needs shelters. Multiagency
17 special needs shelter discharge planning teams shall provide
18 assistance to local emergency management agencies with the
19 continued operation or closure of the shelters, as well as
20 with the discharge of special needs clients to alternate
21 facilities if necessary. Local emergency management agencies
22 may request the assistance of a multiagency special needs
23 shelter discharge planning team by alerting statewide
24 emergency management officials of the necessity for additional
25 assistance in their area. The Secretary of Elderly Affairs is
26 encouraged to proactively work with other state agencies prior
27 to any natural disasters for which warnings are provided to
28 ensure that multiagency special needs shelter discharge
29 planning teams are ready to assemble and deploy rapidly upon a
30 determination by state emergency management officials that a
31 disaster area requires additional assistance. The Secretary of

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Elderly Affairs may call upon any state agency or office to provide staff to assist a multiagency special needs shelter discharge planning team or teams. Unless the secretary determines that the nature or circumstances surrounding the disaster do not warrant participation from a particular agency's staff, each multiagency special needs shelter discharge planning team shall include at least one representative from each of the following state agencies:

1. Department of Elderly Affairs.
2. Department of Health.
3. Department of Children and Family Services.
4. Department of Veterans' Affairs.
5. Department of Community Affairs.
6. Agency for Health Care Administration.
7. Agency for Persons with Disabilities.

(3) REIMBURSEMENT TO HEALTH CARE PRACTITIONERS AND FACILITIES.--

(a) The Department of Health shall upon request reimburse, ~~subject to the availability of funds for this purpose,~~ health care practitioners, as defined in s. 456.001, provided the practitioner is not providing care to a patient under an existing contract, and emergency medical technicians and paramedics licensed under ~~pursuant to~~ chapter 401 for medical care provided at the request of the department in special needs shelters or at other locations during times of emergency or a declared ~~major~~ disaster. Reimbursement for health care practitioners, except for physicians licensed under ~~pursuant to~~ chapter 458 or chapter 459, shall be based on the average hourly rate that such practitioners were paid according to the most recent survey of Florida hospitals conducted by the Florida Hospital Association or other

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1 nationally or state recognized data source. Reimbursement
 2 shall be requested on forms prepared by the Department of
 3 Health and shall be paid as specified in paragraph (c).
 4 (b) If, upon closure of a special needs shelter, a
 5 multiagency special needs shelter discharge planning team
 6 determines that it is necessary to discharge persons with
 7 special needs to other health care facilities, such as
 8 hospitals, nursing homes, assisted living facilities, and
 9 community residential homes, the receiving facilities shall be
 10 eligible for reimbursement for services provided to the
 11 individuals for up to 90 days. Any facility eligible for
 12 reimbursement under this paragraph shall submit invoices for
 13 reimbursement on forms developed by the department. A facility
 14 must show proof of a written request from a representative of
 15 an agency serving on the multiagency special needs shelter
 16 discharge planning team that the individual for whom the
 17 facility is seeking reimbursement for services rendered was
 18 referred to that facility from a special needs shelter. The
 19 department shall specify by rule which expenses are
 20 reimbursable and the rate of reimbursement for each service.
 21 Reimbursement for the services described in this paragraph
 22 shall be paid as specified in paragraph (c).
 23 (c) If a Presidential Disaster Declaration has been
 24 issued ~~made, and the Federal Government makes funds available,~~
 25 the department shall request federal ~~use such funds for~~
 26 reimbursement of eligible expenditures. In other situations,
 27 or if federal funds do not fully compensate the department for
 28 reimbursements permissible under ~~reimbursement made pursuant~~
 29 ~~to~~ this section, the department shall process a budget
 30 amendment to obtain reimbursement from unobligated,
 31 unappropriated moneys in the General Revenue Fund. The

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1 department shall not provide reimbursement to facilities under
2 this subsection for services provided to a person with special
3 needs if, during the period of time in which the services were
4 provided, the individual was enrolled in another state-funded
5 program, such as Medicaid or another similar program, was
6 covered under a policy of health insurance as defined in s.
7 624.603, or was a member of a health maintenance organization
8 or prepaid health clinic as defined in chapter 641, which
9 would otherwise pay for the same services. Travel expense and
10 per diem costs shall be reimbursed pursuant to s. 112.061.

11 (4) HEALTH CARE PRACTITIONER REGISTRY.--The department
12 may use the registries established in ss. 401.273 and 456.38
13 when health care practitioners are needed to staff special
14 needs shelters or to assist with other disaster-related
15 activities ~~staff disaster medical assistance teams.~~

16 (5) SPECIAL NEEDS SHELTER INTERAGENCY COMMITTEE.--The
17 ~~Secretary~~ ~~Department~~ of Health may establish a special needs
18 shelter interagency committee and serve as or appoint a
19 designee to serve as the committee's chair. The department
20 shall provide any necessary staff and resources to support the
21 committee in the performance of its duties, ~~to be chaired and~~
22 ~~staffed by the department.~~ The committee shall address and
23 resolve problems related to special needs shelters not
24 addressed in the state comprehensive emergency medical plan
25 and shall consult on ~~serve as an oversight committee to~~
26 ~~monitor~~ the planning and operation of special needs shelters.

27 (a) The committee shall ~~may~~:

28 1. Develop, ~~and~~ negotiate, and regularly review any
29 necessary interagency agreements.

30 2. Undertake other such activities as the department
31 deems necessary to facilitate the implementation of this

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1 section.

2 3. Submit recommendations to the Legislature as
3 necessary.

4 (b) The special needs shelter interagency committee
5 shall be composed of representatives of emergency management,
6 health, medical, and social services organizations. Membership
7 shall include, but shall not be limited to, representatives of
8 the Departments of Health, Community Affairs, Children and
9 Family Services, Elderly Affairs, ~~Labor and Employment~~
10 ~~Security~~, and Education; the Agency for Health Care
11 Administration; the Florida Medical Association; the Florida
12 Osteopathic Medical Association; Associated Home Health
13 Industries of Florida, Inc.; the Florida Nurses Association;
14 the Florida Health Care Association; the Florida Assisted
15 Living Affiliation Association; the Florida Hospital
16 Association; the Florida Statutory Teaching Hospital Council;
17 the Florida Association of Homes for the Aging; the Florida
18 Emergency Preparedness Association; the American Red Cross;
19 Florida Hospices and Palliative Care, Inc.; the Association of
20 Community Hospitals and Health Systems; the Florida
21 Association of Health Maintenance Organizations; the Florida
22 League of Health Systems; Private Care Association; ~~and~~ the
23 Salvation Army; the Florida Association of Aging Services
24 Providers; AARP; and the Florida Renal Coalition.

25 (c) Meetings of the committee shall be held in
26 Tallahassee, and members of the committee shall serve at the
27 expense of the agencies or organizations they represent. The
28 committee shall make every effort to use teleconference or
29 video conference capabilities in order to ensure statewide
30 input and participation.

31 (6) RULES.--The department has the authority to adopt

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1 rules necessary to implement this section. Rules shall ~~may~~
2 include:

3 (a) The ~~a~~ definition of a "person with special needs,"
4 including eligibility criteria for individuals with physical,
5 mental, cognitive impairment, or sensory disabilities and the
6 services a person with special needs can expect to receive in
7 a special needs shelter ~~patient, specify physician~~
8 ~~reimbursement, and designate which county health departments~~
9 ~~will have responsibility for implementation of subsections (2)~~
10 ~~and (3).~~

11 (b) The process for special needs shelter health care
12 practitioners and facility reimbursement for services provided
13 in a disaster.

14 (c) Guidelines for special needs shelter staffing
15 levels to provide services.

16 (d) The definition of and standards for special needs
17 shelter supplies and equipment, including durable medical
18 equipment.

19 (e) Compliance with applicable laws relating to
20 service animals.

21 (f) Standards for the special needs shelter
22 registration process, including guidelines for addressing the
23 needs of unregistered persons in need of a special needs
24 shelter.

25 (g) Standards for addressing the needs of families
26 where only one dependent is eligible for admission to a
27 special needs shelter and the needs of adults with special
28 needs who are caregivers for individuals without special
29 needs.

30 (h) The requirement of the county health departments
31 to seek the participation of hospitals, nursing homes,

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1 assisted living facilities, home health agencies, hospice
2 providers, nurse registries, home medical equipment providers,
3 dialysis centers, and other health and medical emergency
4 preparedness stakeholders in preevent planning activities.

5 (7) ~~REVIEW OF EMERGENCY MANAGEMENT PLANS; CONTINUITY~~
6 OF CARE.--Each emergency management plan submitted to a county
7 health department by a home health agency under s. 400.492, by
8 a nurse registry pursuant to s. 400.506(16)(e), by a hospice
9 pursuant to s. 400.610(1)(b), or by a home medical equipment
10 provider pursuant to s. 400.934(20)(a) shall specify the means
11 by which the home health agency, nurse registry, hospice, or
12 home medical equipment provider will continue to provide staff
13 and equipment to perform the same type and quantity of
14 services for their patients who evacuate to special needs
15 shelters that were being provided to those patients prior to
16 evacuation. The submission of emergency management plans to
17 county health departments by home health agencies, ~~pursuant to~~
18 ~~s. 400.497(8)(c) and (d) and by nurse registries, pursuant to~~
19 ~~s. 400.506(16)(e) and by hospice programs, pursuant to s.~~
20 ~~400.610(1)(b)~~ and home medical equipment providers is
21 conditional upon the receipt of an appropriation by the
22 department to establish ~~medical services~~ disaster coordinator
23 positions in county health departments unless the secretary of
24 the department and a local county commission jointly determine
25 to require such plans to be submitted based on a determination
26 that there is a special need to protect public health in the
27 local area during an emergency.

28 Section 6. Section 400.492, Florida Statutes, is
29 amended to read:

30 400.492 Provision of services during an
31 emergency.--Each home health agency shall prepare and maintain

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1 a comprehensive emergency management plan that is consistent
2 with the standards adopted by national or state accreditation
3 organizations and consistent with the local special needs
4 plan. The plan shall be updated annually and shall provide for
5 continuing home health services during an emergency that
6 interrupts patient care or services in the patient's home. The
7 plan shall include the means by which the home health agency
8 will continue to provide staff to perform the same type and
9 quantity of services to their patients who evacuate to special
10 needs shelters that were being provided to those patients
11 prior to evacuation. The plan shall describe how the home
12 health agency establishes and maintains an effective response
13 to emergencies and disasters, including: notifying staff when
14 emergency response measures are initiated; providing for
15 communication between staff members, county health
16 departments, and local emergency management agencies,
17 including a backup system; identifying resources necessary to
18 continue essential care or services or referrals to other
19 organizations subject to written agreement; and prioritizing
20 and contacting patients who need continued care or services.

21 (1) Each patient record for patients who are listed in
22 the registry established pursuant to s. 252.355 shall include
23 a description of how care or services will be continued in the
24 event of an emergency or disaster. The home health agency
25 shall discuss the emergency provisions with the patient and
26 the patient's caregivers, including where and how the patient
27 is to evacuate, procedures for notifying the home health
28 agency in the event that the patient evacuates to a location
29 other than the shelter identified in the patient record, and a
30 list of medications and equipment which must either accompany
31 the patient or will be needed by the patient in the event of

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1 an evacuation.

2 (2) Each home health agency shall maintain a current
3 prioritized list of patients who need continued services
4 during an emergency. The list shall indicate how services
5 shall be continued in the event of an emergency or disaster
6 for each patient and if the patient is to be transported to a
7 special needs shelter, and shall indicate if the patient is
8 receiving skilled nursing services and the patient's
9 medication and equipment needs. The list shall be furnished to
10 county health departments and to local emergency management
11 agencies, upon request.

12 (3) Home health agencies shall not be required to
13 continue to provide care to patients in emergency situations
14 that are beyond their control and that make it impossible to
15 provide services, such as when roads are impassable or when
16 patients do not go to the location specified in their patient
17 records. Home health agencies may establish links to local
18 emergency operations centers to determine a mechanism to
19 approach specific areas within a disaster area in order for
20 the agency to reach its clients. The presentation of a home
21 health agency client to a special needs shelter without the
22 home health agency making a good faith effort to provide
23 services in the shelter setting shall be considered
24 abandonment of the client and constitutes a class II
25 deficiency, subject to sanctions provided in s. 400.484(2)(b).
26 For purposes of this section, "good faith effort" may be
27 demonstrated by documented attempts of staff to follow
28 procedures as outlined in the home health agency's
29 comprehensive emergency management plan, and by the patient's
30 record, which support a finding that continuing care has been
31 provided for those patients who have been identified as

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needing care by the home health agency in the event of an
emergency or disaster under subsection (1).

(4) Notwithstanding the provisions of s. 400.464(2) or any other provision of law to the contrary, a home health agency may provide services in a special needs shelter located in any county.

Section 7. Paragraphs (c) and (d) of subsection (8) of section 400.497, Florida Statutes, are amended to read:

400.497 Rules establishing minimum standards.--The agency shall adopt, publish, and enforce rules to implement this part, including, as applicable, ss. 400.506 and 400.509, which must provide reasonable and fair minimum standards relating to:

(8) Preparation of a comprehensive emergency management plan pursuant to s. 400.492.

(c) The plan is subject to review and approval by the county health department. During its review, the county health department shall contact state and local health and medical stakeholders during its review when necessary. ~~ensure that the following agencies, at a minimum, are given the opportunity to review the plan:~~

- ~~1. The local emergency management agency.~~
- ~~2. The Agency for Health Care Administration.~~
- ~~3. The local chapter of the American Red Cross or other lead sheltering agency.~~
- ~~4. The district office of the Department of Children and Family Services.~~

The county health department shall complete its review to ensure that the plan is in accordance with the criteria set forth in the rules of the Agency for Health Care

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1 Administration within 90 ~~60~~ days after receipt of the plan and
2 shall either approve the plan or advise the home health agency
3 of necessary revisions. If the home health agency fails to
4 submit a plan or fails to submit the requested information or
5 revisions to the county health department within 30 days after
6 written notification from the county health department, the
7 county health department shall notify the Agency for Health
8 Care Administration. The agency shall notify the home health
9 agency that such failure constitutes a deficiency, subject to
10 a fine of \$5,000 per occurrence. If the plan is not submitted,
11 information is not provided, or revisions are not made as
12 requested, the agency may impose the fine.

13 (d) For any home health agency that operates in more
14 than one county, the Department of Health shall review the
15 plan, after consulting with state and local health and medical
16 stakeholders, when necessary ~~all of the county health~~
17 ~~departments, the agency, and all the local chapters of the~~
18 ~~American Red Cross or other lead sheltering agencies in the~~
19 ~~areas of operation for that particular home health agency.~~ The
20 department ~~of Health~~ shall complete its review within 90 days
21 after receipt of the plan and shall either approve the plan or
22 advise the home health agency of necessary revisions. The
23 department ~~of Health~~ shall make every effort to avoid imposing
24 differing requirements on a home health agency that operates
25 in more than one county as a result of differing or
26 conflicting comprehensive plan requirements of the ~~based on~~
27 ~~differences between~~ counties in which ~~on~~ the home health
28 agency operates.

29 Section 8. Subsection (16) of section 400.506, Florida
30 Statutes, is amended to read:

31 400.506 Licensure of nurse registries; requirements;

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1 penalties.--

2 (16) Each nurse registry shall prepare and maintain a
3 comprehensive emergency management plan that is consistent
4 with the criteria in this subsection and with the local
5 special needs plan. The plan shall be updated annually. The
6 plan shall include the means by which the nurse registry will
7 continue to provide staff to perform the same type and
8 quantity of services to their patients who evacuate to special
9 needs shelters that were being provided to those patients
10 prior to evacuation. The plan shall specify how the nurse
11 registry shall facilitate the provision of continuous care by
12 persons referred for contract to persons who are registered
13 pursuant to s. 252.355 during an emergency that interrupts the
14 provision of care or services in private residencies. Nurse
15 registries may establish links to local emergency operations
16 centers to determine a mechanism to approach specific areas
17 within a disaster area in order for a provider to reach its
18 clients. The presentation of nurse registry clients to a
19 special needs shelter without the nurse registry provider
20 making a good faith effort to provide services in the shelter
21 setting shall be considered abandonment of the patient and
22 constitutes a class II deficiency, subject to sanctions
23 provided in s. 400.484(2)(b). For purposes of this section,
24 "good faith effort" may be demonstrated by documented attempts
25 of staff to follow procedures as outlined in the nurse
26 registry's comprehensive emergency management plan which
27 support a finding that continuing care has been provided for
28 those patients who have been identified as needing care by the
29 nurse registry in the event of an emergency under s.
30 400.506(1).

31 (a) All persons referred for contract who care for

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1 persons registered pursuant to s. 252.355 must include in the
2 patient record a description of how care will be continued
3 during a disaster or emergency that interrupts the provision
4 of care in the patient's home. It shall be the responsibility
5 of the person referred for contract to ensure that continuous
6 care is provided.

7 (b) Each nurse registry shall maintain a current
8 prioritized list of patients in private residences who are
9 registered pursuant to s. 252.355 and are under the care of
10 persons referred for contract and who need continued services
11 during an emergency. This list shall indicate, for each
12 patient, if the client is to be transported to a special needs
13 shelter and if the patient is receiving skilled nursing
14 services. Nurse registries shall make this list available to
15 county health departments and to local emergency management
16 agencies upon request.

17 (c) Each person referred for contract who is caring
18 for a patient who is registered pursuant to s. 252.355 shall
19 provide a list of the patient's medication and equipment needs
20 to the nurse registry. Each person referred for contract shall
21 make this information available to county health departments
22 and to local emergency management agencies upon request.

23 (d) Each person referred for contract shall not be
24 required to continue to provide care to patients in emergency
25 situations that are beyond the person's control and that make
26 it impossible to provide services, such as when roads are
27 impassable or when patients do not go to the location
28 specified in their patient records.

29 (e) The comprehensive emergency management plan
30 required by this subsection is subject to review and approval
31 by the county health department. During its review, the county

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1 health department shall contact state and local health and
2 medical stakeholders, when necessary ~~ensure that, at a~~
3 ~~minimum, the local emergency management agency, the Agency for~~
4 ~~Health Care Administration, and the local chapter of the~~
5 ~~American Red Cross or other lead sheltering agency are given~~
6 ~~the opportunity to review the plan.~~ The county health
7 department shall complete its review to ensure that the plan
8 is in accordance with the criteria set forth in the rules of
9 the Agency for Health Care Administration within 90 ~~60~~ days
10 after receipt of the plan and shall either approve the plan or
11 advise the nurse registry of necessary revisions. If a nurse
12 registry fails to submit a plan or fails to submit requested
13 information or revisions to the county health department
14 within 30 days after written notification from the county
15 health department, the county health department shall notify
16 the Agency for Health Care Administration. The agency shall
17 notify the nurse registry that such failure constitutes a
18 deficiency, subject to a fine of \$5,000 per occurrence. If the
19 plan is not submitted, information is not provided, or
20 revisions are not made as requested, the agency may impose the
21 fine.

22 (f) The Department of Health shall review the
23 comprehensive emergency management plan of any nurse registry
24 that operates in more than one county. The department shall
25 complete its review within 90 days after receipt of the plan
26 and shall either approve the plan or advise the nurse registry
27 of necessary revisions. The department shall make every effort
28 to avoid imposing differing requirements on nurse registries
29 that operate in more than one county as a result of differing
30 or conflicting comprehensive plan requirements of the counties
31 in which the nurse registry operates.

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1 ~~(g)(f)~~ The Agency for Health Care Administration shall
2 adopt rules establishing minimum criteria for the
3 comprehensive emergency management plan and plan updates
4 required by this subsection, with the concurrence of the
5 Department of Health and in consultation with the Department
6 of Community Affairs.

7 Section 9. Paragraph (b) of subsection (1) of section
8 400.610, Florida Statutes, is amended to read:

9 400.610 Administration and management of a hospice.--

10 (1) A hospice shall have a clearly defined organized
11 governing body, consisting of a minimum of seven persons who
12 are representative of the general population of the community
13 served. The governing body shall have autonomous authority and
14 responsibility for the operation of the hospice and shall meet
15 at least quarterly. The governing body shall:

16 (b)1. Prepare and maintain a comprehensive emergency
17 management plan that provides for continuing hospice services
18 in the event of an emergency that is consistent with local
19 special needs plans. The plan shall include provisions for
20 ensuring continuing care to hospice patients who go to special
21 needs shelters. The plan shall include the means by which the
22 hospice provider will continue to provide staff to perform the
23 same type and quantity of services to their patients who
24 evacuate to special needs shelters that were being provided to
25 those patients prior to evacuation. The plan is subject to
26 review and approval by the county health department, except as
27 provided in subparagraph 2. During its review, the county
28 health department shall contact state and local health and
29 medical stakeholders, when necessary ~~ensure that the~~
30 ~~department, the agency, and the local chapter of the American~~
31 ~~Red Cross or other lead sheltering agency have an opportunity~~

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1 ~~to review and comment on the plan.~~ The county health
2 department shall complete its review to ensure that the plan
3 is in accordance with the criteria set forth in the rules of
4 the Department of Elderly Affairs within 90 60 days after
5 receipt of the plan and shall either approve the plan or
6 advise the hospice of necessary revisions. Hospice providers
7 may establish links to local emergency operations centers to
8 determine a mechanism to approach specific areas within a
9 disaster area in order for the provider to reach its clients.
10 The presentation of hospice clients to a special needs shelter
11 without the hospice provider making a good faith effort to
12 provide services in the shelter setting shall be considered
13 abandonment of the client subject to sanction as provided by
14 law or rule. For the purposes of this section, "good faith
15 effort" may be demonstrated by documented attempts of staff to
16 follow procedures as outlined in the hospice's comprehensive
17 emergency management plan and to provide continuing care for
18 those hospice clients who have been identified as needing
19 alternative caregiver services in the event of an emergency.

20 2. For any hospice that operates in more than one
21 county, the Department of Health during its review shall
22 contact state and local health and medical stakeholders, when
23 necessary ~~review the plan, after consulting with all of the~~
24 ~~county health departments, the agency, and all the local~~
25 ~~chapters of the American Red Cross or other lead sheltering~~
26 ~~agency in the areas of operation for that particular hospice.~~
27 The Department of Health shall complete its review to ensure
28 that the plan is in accordance with the criteria set forth in
29 the rules of the Department of Elderly Affairs within 90 days
30 after receipt of the plan and shall either approve the plan or
31 advise the hospice of necessary revisions. The Department of

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1 Health shall make every effort to avoid imposing ~~on the~~
 2 ~~hospice~~ differing requirements on a hospice that operates in
 3 more than one county as a result of differing or conflicting
 4 comprehensive plan requirements of the ~~based on differences~~
 5 ~~between~~ counties in which the hospice operates.

6 Section 10. Subsections (13) through (16) of section
 7 400.925, Florida Statutes, are renumbered as subsections (14)
 8 through (17), respectively, and a new subsection (13) is added
 9 to that section to read:

10 400.925 Definitions.--As used in this part, the term:
 11 (13) "Life-supporting or life-sustaining equipment"
 12 means a device that is essential to, or that yields
 13 information that is essential to, the restoration or
 14 continuation of a bodily function important to the
 15 continuation of human life. Life-supporting or life-sustaining
 16 equipment includes apnea monitors, enteral feeding pumps,
 17 infusion pumps, portable home dialysis equipment, and
 18 ventilator equipment and supplies for all related equipment,
 19 including oxygen equipment and related respiratory equipment.

20 Section 11. Subsections (20), (21), and (22) are added
 21 to section 400.934, Florida Statutes, to read:

22 400.934 Minimum standards.--As a requirement of
 23 licensure, home medical equipment providers shall:

24 (20)(a) Prepare and maintain a comprehensive emergency
 25 management plan that meets minimum criteria established by the
 26 agency in rule under s. 400.935. The plan shall be updated
 27 annually and shall provide for continuing home medical
 28 equipment services for life-supporting or life-sustaining
 29 equipment, as defined in 400.925, during an emergency that
 30 interrupts home medical equipment services in a patient's
 31 home. The plan shall include:

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1 1. The means by which the home medical equipment
2 provider will continue to provide equipment to perform the
3 same type and quantity of services to its patients who
4 evacuate to special needs shelters that were being provided to
5 those patients prior to evacuation.

6 2. The means by which the home medical equipment
7 provider establishes and maintains an effective response to
8 emergencies and disasters, including plans for:

9 a. Notification of staff when emergency response
10 measures are initiated.

11 b. Communication between staff members, county health
12 departments, and local emergency management agencies, which
13 shall include provisions for a backup communications system.

14 c. Identification of resources necessary to continue
15 essential care or services or referrals to other organizations
16 subject to written agreement.

17 d. Contacting and prioritizing patients in need of
18 continued medical equipment services and supplies.

19 (b) The plan is subject to review and approval by the
20 county health department. During its review, the county health
21 department shall contact state and local health and medical
22 stakeholders, when necessary. The county health department
23 shall complete its review to ensure that the plan is in
24 accordance with the criteria set forth in the rules of the
25 Agency for Health Care Administration within 90 days after
26 receipt of the plan. If a home medical equipment provider
27 fails to submit a plan or fails to submit requested
28 information or revisions to the county health department
29 within 30 days after written notification from the county
30 health department, the county health department shall notify
31 the Agency for Health Care Administration. The agency shall

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1 notify the home medical equipment provider that such failure
2 constitutes a deficiency, subject to a fine of \$5,000 per
3 occurrence. If the plan is not submitted, information is not
4 provided, or revisions are not made as requested, the agency
5 may impose the fine.

6 (c) The Department of Health shall review the
7 comprehensive emergency management plan of any home medical
8 equipment provider that operates in more than one county. The
9 department shall complete its review within 90 days after
10 receipt of the plan and shall either approve the plan or
11 advise the home medical equipment provider of necessary
12 revisions. The department shall make every effort to avoid
13 imposing differing requirements on home medical equipment
14 providers that operate in more than one county as a result of
15 differing or conflicting comprehensive plan requirements of
16 the counties in which the home medical equipment provider
17 operates.

18 (21) Each home medical equipment provider shall
19 maintain a current prioritized list of patients who need
20 continued services during an emergency. The list shall
21 indicate the means by which services shall be continued for
22 each patient in the event of an emergency or disaster, whether
23 the patient is to be transported to a special needs shelter,
24 and whether the patient has life-supporting or life-sustaining
25 equipment, including the specific type of equipment and
26 related supplies. The list shall be furnished to county health
27 departments and local emergency management agencies, upon
28 request.

29 (22) Home medical equipment providers may establish
30 links to local emergency operations centers to determine a
31 mechanism to approach specific areas within a disaster area in

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1 order for the provider to reach its patients.

2 Section 12. Subsection (11) is added to section
3 400.935, Florida Statutes, to read:

4 400.935 Rules establishing minimum standards.--The
5 agency shall adopt, publish, and enforce rules to implement
6 this part, which must provide reasonable and fair minimum
7 standards relating to:

8 (11) Preparation of the comprehensive emergency
9 management plan under s. 400.934 and the establishment of
10 minimum criteria for the plan, including the maintenance of
11 patient equipment and supply lists that can accompany patients
12 who are transported from their homes. Such rules shall be
13 formulated in consultation with the Department of Health and
14 the Department of Community Affairs.

15 Section 13. Section 408.831, Florida Statutes, is
16 amended to read:

17 408.831 Denial, suspension, or revocation of a
18 license, registration, certificate, or application.--

19 (1) In addition to any other remedies provided by law,
20 the agency may deny each application or suspend or revoke each
21 license, registration, or certificate of entities regulated or
22 licensed by it:

23 (a) If the applicant, licensee, registrant, or
24 certificateholder, or, in the case of a corporation,
25 partnership, or other business entity, if any officer,
26 director, agent, or managing employee of that business entity
27 or any affiliated person, partner, or shareholder having an
28 ownership interest equal to 5 percent or greater in that
29 business entity, has failed to pay all outstanding fines,
30 liens, or overpayments assessed by final order of the agency
31 or final order of the Centers for Medicare and Medicaid

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1 Services, not subject to further appeal, unless a repayment
2 plan is approved by the agency; or

3 (b) For failure to comply with any repayment plan.

4 (2) In reviewing any application requesting a change
5 of ownership or change of the licensee, registrant, or
6 certificateholder, the transferor shall, prior to agency
7 approval of the change, repay or make arrangements to repay
8 any amounts owed to the agency. Should the transferor fail to
9 repay or make arrangements to repay the amounts owed to the
10 agency, the issuance of a license, registration, or
11 certificate to the transferee shall be delayed until repayment
12 or until arrangements for repayment are made.

13 (3) Entities subject to this section may exceed their
14 licensed capacity to act as a receiving facility in accordance
15 with an emergency operations plan for clients of evacuating
16 providers from a geographic area where an evacuation order has
17 been issued by a local authority having jurisdiction. While in
18 an overcapacity status, each provider must furnish or arrange
19 for appropriate care and services to all clients. In addition,
20 the agency shall approve requests for overcapacity beyond 15
21 days, which approvals may be based upon satisfactory
22 justification and need as provided by the receiving and
23 sending facility.

24 (4) An inactive license may be issued to a licensee
25 subject to this section when the provider is located in a
26 geographic area where a state of emergency was declared by the
27 Governor if the provider:

28 (a) Suffered damage to the provider's operation during
29 that state of emergency.

30 (b) Is currently licensed.

31 (c) Does not have a provisional license.

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(d) Will be temporarily unable to provide services but is reasonably expected to resume services within 12 months.

An inactive license may be issued for a period not to exceed 12 months but may be renewed by the agency for up to 6 additional months upon demonstration to the agency of progress toward reopening. A request by a licensee for an inactive license or to extend the previously approved inactive period must be submitted in writing to the agency, accompanied by written justification for the inactive license which states the beginning and ending dates of inactivity and includes a plan for the transfer of any clients to other providers and appropriate licensure fees. Upon agency approval, the licensee shall notify clients of any necessary discharge or transfer as required by authorizing statutes or applicable rules. The beginning of the inactive licensure period shall be the date the provider ceases operations. The end of the inactive period shall become the licensee expiration date, and all licensure fees must be current, paid in full, and may be prorated. Reactivation of an inactive license requires the prior approval by the agency of a renewal application, including payment of licensure fees and agency inspections indicating compliance with all requirements of this part and applicable rules and statutes.

(5)(3) This section provides standards of enforcement applicable to all entities licensed or regulated by the Agency for Health Care Administration. This section controls over any conflicting provisions of chapters 39, 381, 383, 390, 391, 393, 394, 395, 400, 408, 468, 483, and 641 or rules adopted pursuant to those chapters.

Section 14. This act shall take effect July 1, 2006.